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September 24, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Suite 222
Washington, DC 20554

Re: *Ex parte filing*
CC Docket 96-45


Dear Mr. Caton:

In accordance with the Commission's Rules, this filing will provide notice that discussions concerning the above-captioned proceedings were held with Commissioner Aides John Nakahata, James Casserly, and Daniel Gonzalez on September 23, 1996. These separate discussions were held on behalf of the Texas Office of Public Utility Counsel (OPC) and were attended by Rick Guzman, Assistant Public Counsel, and Mark Cooper, consultant for OPC.

The discussions addressed the interrelationship of universal service and access charge reform, as evidenced by the attached summary. At the request of James Casserly, OPC's comments filed in the Texas Universal Service proceeding were provided. Those comments address universal service issues for Texas.

Pursuant to Commission Rule 1.1206(a)(2), two (2) copies of this letter, the summary, and the referenced comments are being filed for inclusion in the public record.

Very truly yours,


Rick Guzman
Assistant Public Counsel

RG:id

cc: Chairman Hundt
Commissioner Ness
Commissioner Chong

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TEXAS PUBLIC UTILITY COUNSEL TALKING POINTS ON THE INTERRELATION OF UNIVERSAL SERVICE, ACCESS CHARGE REFORM, AND LOCAL COMPETITION

The Texas Office of Public Utility Counsel (OPC) appreciates the opportunity to offer these comments. OPC expects that most states, such as Texas, will be inclined to follow the lead of the FCC in implementing universal service and access charge reform. These states will follow the FCC's lead, because there is a great deal of pressure on states to "mimic" or achieve parity with federal tariffs so as to avoid bypass and gaming by intraLATA long distance providers.

ACCESS CHARGE REFORM

The Commission has recognized that the loop is a facility that is shared between local and long distance (among other services).

- Because of productivity gains in the provision of loop, costs have been declining. The amount of money collected to cover interstate loop costs should, therefore, be reduced to reflect these declining costs. Two mechanisms primarily recover those costs: SLC and CCL. Accordingly, proportionate reductions across both cost recovery mechanisms are necessary for interstate prices to reflect accurately new cost levels.
- To the extent that a usage-based charge is deemed inefficient for the recovery of fixed (or quasi-fixed costs), the CCL could be transformed into a channel charge. Each telecommunications service provider identified as supplying interstate services over a specific loop would bear a share of the channel charge.

UNIVERSAL SERVICE COST MODELS

The Commission has headed in the right direction with its decision on cost modeling for unbundled elements. It should remain vigilant as the states implement that decision.

- Economic principles and administrative efficiency require that the same cost studies used to derive the price of unbundled elements should be used to estimate the size of the universal service fund for high cost companies. Efficient pricing of unbundled elements will drive costs in the marketplace and they should drive the public policy interventions to alter market outcomes. If universal service support levels are quantified through use of TELRIC methods, there will also be an incentive to pursue a larger number of zones to better target universal service support. This will serve the general purpose of aligning prices closer to costs for unbundled elements.
- More importantly, because these studies will play such a prominent role in helping set public policy, the Commission

should require that state applications of the model be publicly available to the greatest extent possible. Requiring that the universal service cost studies be publicly available is particularly important. The offensive use of privilege as a means to hinder review by others is abhorrent. Among other things, it demonstrates a lack of good faith because it effectively shields critical outcome-determinative information, not otherwise available, from meaningful public policy analysis (compare FTA sect. 251(c)(1)).

- Unlike the section 252 arbitrations which are largely a bilateral continuation of the negotiation process, the universal service proceedings are multi-lateral, impacting all types of customers and service providers. States, therefore, should not be permitted to restrict public interest parties from participation in such proceedings as they have with the arbitrations. Initial cases, where fundamental approaches and basic models are defined should be fully litigated. Close scrutiny of cost models by state commissions at the outset is an indispensable first step to setting the industry on an efficient path.
- Using well defined, fully vetted TELRIC studies will also lay a firm baseline for dealing with the gap between embedded costs and TELRIC costs. This matter should be a state issue, with recoverable (i.e., prudently incurred, uncompensated) costs handled in the states.

UNIVERSAL SERVICE

A "just, reasonable, and affordable" rate is not simply a matter of picking a single dollar figure to be applied in cookie-cutter fashion across the country. See FTA sect. 254(b)(1).

- Affordability of service should be measured as both the absolute level of penetration of telephone service and the relative burden that service places on households.
- Current rates take a disproportionately larger share of the income of low income household. The percentage of low income households without service is much higher. Thus, in both dimensions of affordability -- burden and penetration -- it is not appropriate to assume that current rates are affordable.
- The Commission should define basic service to include usage of the network for routine daily communications. Calling area should be considered in determining whether rates are reasonably comparable between rural and urban areas. In rural areas, many such calls may require long distance charges. This should be taken into account when calculating a comparable bill. Similarly, the Commission must consider long distance and other charges which are placed on advanced services -- such as internet access -- in its consideration of reasonably comparable rates for rural areas.